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5 ELLEN WILLIAMS,
6 Plaintiff,

7 v.
8

9 ALAMEDA COUNTY, CALIFORNIA
10 et al.,
11

12 Defendants.
13

14 Case No. 21-cv-00523-CRB
15

16 **ORDER GRANTING MOTION TO
17 DISMISS AND DEFENDANTS' RJD;
18 DENYING PLAINTIFF'S RJD**

19 Defendants County of Alameda and Nicole Radford, a social worker employed by
20 the County, move to dismiss all but one claim in Plaintiff Ellen Williams's First Amended
21 Complaint (FAC). MTD FAC (dkt. 36) at 9. Williams alleges that Radford made false
22 police reports claiming that Plaintiff was abusing her elderly husband, Dr. Michael
23 Williams. FAC (dkt. 33) ¶¶ 25–26, 38, 40. Williams plans to add additional defendants if
24 she discovers their involvement. Id. ¶¶ 8–9.

25 Williams brings claims under 42 U.S.C § 1983, asserting that Radford's conduct
26 violated the Fourth and Fourteenth Amendments. Id. ¶¶ 43–45. Williams brings further
27 claims under 42 U.S.C § 1983, asserting that the County's policies caused those
28 constitutional violations pursuant to Monell v. Dept. of Soc. Servs., 436 U.S. 658 (1978).
Id. ¶¶ 43–52. Williams further asserts that Defendants violated California Civil Code
section 51.7 (the Ralph Act) (prohibiting acts of violence or threats of violence against a
person on account of their protected personal characteristics), violated California Civil
Code section 52.1 (the Bane Act) (prohibiting interference with a person's constitutional

1 rights by acts of violence or threat of violence), and committed common-law negligence.¹

2 Id. ¶¶ 53–65.

3 In her Opposition, Williams seeks leave to add a claim asserting violations of
4 California Constitution Article I, Section 7, specifically the equal protection clause. Opp.
5 (dkt. 40) at 9–10. Both parties have submitted requests for judicial notice (RJN). See
6 Defendants' RJN (dkt. 36 attach. 1); see also Williams's RJN (dkt. 40 attach. 1–3).

7 The Court finds this matter suitable for resolution without oral argument pursuant to
8 Civil Local Rule 7-1(b), and therefore vacated the motion hearing. As explained below,
9 the Court grants the motion to dismiss, with leave to amend one federal claim and to add
10 the California constitution claim, with restrictions. Additionally, the Court grants
11 Defendants' RJN and denies Williams's RJN.

12 I. BACKGROUND

13 A. Parties

14 Williams is a Black woman, married to Dr. Williams, a practicing oncologist. FAC
15 ¶¶ 25, 36, 41. Williams is a resident of the County of Alameda and the City of Dublin. Id.
16 ¶ 3. Radford is an Adult Protective Services intake social worker,² employed by Adult
17 Protective Services of the County of Alameda. MTD FAC at 8–9.

18 Williams currently has a case before another Northern District court, Williams v.
19 City of Pleasanton, No. 20-cv-08720-WHO. She filed the initial complaint in that case on
20 December 9, 2020, and discovery is ongoing. She is, as here, represented by James M.
21 Braden. In that case, Williams alleges that she was arrested at Valley Care Medical Center
22 (VCMC) on November 14, 2019, while visiting her husband. Williams subsequently sued
23 both the City of Pleasanton, some police employees (together, Pleasanton Defendants),
24 VCMC, and some of its employees. Compl. (dkt. 17) in Williams v. Pleasanton, No. 20-

25
26 ¹ Williams brings the three state law claims against both Radford and the County via
respondeat superior. See id. ¶¶ 56, 61, 65

27 ² Williams alleges that Radford lied by saying that she was not a social worker and was
only an intake worker. Id. ¶¶ 28–29. Defendants refer to Radford as an “intake social
28 worker.” MTD FAC at 8–9. Williams does not challenge this characterization in her
Opposition. See Opp. at 1.

1 cv-08720 ¶¶ 4–20 (Pleasanton Compl.).

2 In the present case, Williams brings many of the same claims against Radford and
3 the County of Alameda as she did against the Pleasanton Defendants. See id. ¶¶ 48–62,
4 79–86 (asserting § 1983 claims, common law negligence, Ralph Act, and Bane Act
5 claims). She also recycles some of the pleading language from her Pleasanton Complaint.
6 Compare id. ¶¶ 21–32 (alleging “a culture of tolerance . . . a ‘Code of Silence’ . . .

7 indifference in hiring . . . and actual notice of problems with the accountability of
8 employees. . . .”), with FAC ¶¶ 13–24 (using the same language). Judge Orrick dismissed
9 the Pleasanton case with leave to amend on all the above claims, except the negligence
10 claim, which Pleasanton Defendants did not seek to dismiss. See Williams v. City of
11 Pleasanton, No. 20-cv-08720, 2021 WL 3932012, at *2 n.2, *3–4 (N.D. Cal. Sept. 2, 2021)
12 (order granting motion to dismiss).

13 Williams did not reference the Pleasanton case in the FAC here. See FAC.
14 Defendants cited the case in their motion to dismiss, but only as legal authority. See MTD
15 FAC at 22. Williams then suggested a connection between the two cases in her
16 Opposition. See Opp. at 3 (“Plaintiff suspects, and will seek evidence to prove it, that

17 Radford involved herself in these maliciously false abuse allegations at the request of, or in

18 some form of association with, people associated with Valley Care Medical Center and the

19 Pleasanton Police Department.”) (cleaned up). Beyond this suggestion, Williams does not

20 go on to link the alleged events of the Pleasanton case with the claims in the present case.

21 There is no further mention of the Pleasanton case in the present case’s material.

22 B. First Amended Complaint

23 In the present case, Williams alleges as follows. On December 31, 2019, Radford,
24 in her capacity as a social worker, falsely reported to the police that Williams was abusing
25 her elderly husband, Dr. Williams. FAC ¶ 25. Radford lied about receiving an anonymous
26 report alleging said abuse and made other outlandish misrepresentations to the police.³ Id.

27
28 ³ Williams alleges that Radford falsely claimed to have made multiple attempts to contact
Dr. Williams, and, having received no response, concluded that Dr. Williams was dead,

1 ¶ 26.

2 The City of Dublin Police contacted the Williamses, whereupon Dr. Williams
 3 assured them that he was alive and well. Id. ¶ 27. The police informed Williams of
 4 Radford's report. Id. Williams called Radford to confront her directly. Id. ¶¶ 28–35. In
 5 that call, Radford attempted to arrange an interview with Dr. Williams. Id. ¶ 35. In that
 6 call, Radford also indicated that she knew that Williams is Black, and that she had acted
 7 against Williams out of racial animus.⁴ Id. ¶¶ 36–37.

8 Subsequently,⁵ Radford made three additional false reports to the Dublin Police
 9 about Williams. Id. ¶ 38. Radford also contacted Williams directly, on multiple
 10 occasions, to coerce a confession of abuse. Id. ¶ 35. Radford continued to act out of racial
 11 animus. Id. ¶ 41.

12 Williams also alleges that the County had customs, policies, and practices
 13 encouraging Radford's conduct; that the County failed to train or discipline Radford; that
 14 high-ranking County officials ratified Radford's conduct or were deliberately indifferent as
 15 to her conduct; that the County permitted a "Code of Silence"; and that the County knew
 16 of a pattern of employee misconduct but failed to rectify said misconduct. Id. ¶¶ 13–24.

17 Plaintiff brings (Claim 1) claims under 42 U.S.C. § 1983 against Radford for
 18 violations of her Fourth and Fourteenth Amendment (due process and equal protection)
 19 rights. Id. ¶¶ 43–45. She brings (Claim 2) claims under 42 U.S.C. § 1983 against the
 20 County of Alameda for those same violations (Monell claims). Id. ¶¶ 46–52. She brings
 21 (Claim 3) common law negligence claims against Radford and against the County via
 22 respondeat superior. Id. ¶¶ 53–57. She brings (Claim 4) claims arising from violations of

23
 24 and that Williams had killed him. Id. ¶¶ 25–26

25 ⁴ Williams alleges that "the way in which Radford communicated . . . to Plaintiff her
 26 knowledge of Plaintiff's race" indicated racial animus or antipathy. Id. ¶ 37. The FAC
 27 does not further detail the content of Radford's communications and how they betrayed
 28 racial animus.

⁵ The FAC does not specify dates for the alleged events, save two. Williams alleges that
 Radford made a false report of elder abuse to the City of Dublin Police on December 31,
 2019. FAC ¶¶ 25, 38. Williams further alleges the City of Dublin Police contacted her
 and her husband that same day (December 31, 2019). Id. ¶ 27. There are no dates attached
 to Williams's call to Radford or Radford's subsequent communications to Williams.

1 the Ralph Act against Radford and against the County via respondeat superior. Id. ¶¶ 58–
 2 61. Finally, she brings (Claim 5) claims arising from violations of the Bane Act against
 3 Radford and against the County via respondeat superior. Id. ¶¶ 62–65.

4 C. Further Procedural History

5 After Plaintiff filed her initial complaint, see Compl. (dkt. 1), Defendants moved to
 6 dismiss all claims, see MTD (dkt. 32). Williams filed an amended complaint with
 7 additional facts, including allegations of racial discrimination. See FAC.⁶ Williams also
 8 dropped her claim against the County asserting negligent hiring and training of County
 9 employees, including Radford. See Compl. ¶¶ 56–59.

10 In response, Defendants filed a new motion to dismiss all claims except the § 1983
 11 equal protection claim against Radford. See MTD FAC at 9. In her Opposition, Williams
 12 (1) failed to respond to Defendant’s motion to dismiss her § 1983 Fourth Amendment
 13 claim, see Opp., (2) conceded that she did not allege a viable “deprivation of liberty” due
 14 process claim, see id. at 3, (3) did not directly address her negligence and Bane Act
 15 claims,⁷ see id. at 7–9, and (4) requested the Court’s leave to amend and add a new claim
 16 arising under Article I, Section 7 of the California Constitution. See id. at 9.

17 II. LEGAL STANDARD

18 Under Rule 12(b)(6) of the Federal Rules of Civil Procedure, the Court may dismiss
 19 a complaint for failure to state a claim upon which relief may be granted. A complaint
 20 must plead “sufficient factual matter, accepted as true, to state a claim to relief that is
 21 plausible on its face.” Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009) (cleaned up). A claim
 22 is plausible “when the plaintiff pleads factual content that allows the court to draw the
 23 reasonable inference that the defendant is liable for the misconduct alleged.” Id. When

24
 25 ⁶ The FAC now includes the following additional allegations not found in the original
 26 complaint: (1) Radford lied about receiving an anonymous call reporting elder abuse, id. ¶¶
 27 25, 32, 40; (2) Radford called the police multiple times after their initial phone
 28 conversation, id. ¶¶ 38–39; (3) Radford threatened Plaintiff with prosecution, id. ¶ 35; and
 (4) Radford had knowledge of Plaintiff’s race and acted out of “antipathy and animus
 against Plaintiff as a Black person,” id. ¶ 37; see also id. ¶¶ 36, 41.

⁷ Williams did address Defendant’s asserted immunities, which would defeat all of her
 state law claims. See Opp. at 7–9.

1 evaluating a motion to dismiss, the court “must take all factual allegations as true and draw
2 all reasonable inferences in favor of the nonmoving party.” Murguia v. Langdon, 61 F.4th
3 1096, 1106 (9th Cir. 2023) (citing Usher v. City of Los Angeles, 828 F.2d 556, 561 (9th
4 Cir. 1987)).

5 In general, an absolute immunity defense is properly raised in a motion to dismiss,
6 ““for the essence of absolute immunity is its possessor’s entitlement not to have to answer
7 for his conduct in a civil damages action’ an entitlement that ‘is effectively lost if a case is
8 erroneously permitted to go to trial.’” Goldstein v. City of Long Beach, 481 F.3d 1170,
9 1172 (9th Cir. 2007) (quoting Mitchell v. Forsyth, 472 U.S. 511, 525 (1985)) (reversed on
10 other grounds).

11 If a court dismisses a complaint for failure to state a claim, it should “freely give
12 leave” to amend “when justice so requires.” Fed. R. Civ. P. 15(a)(2). A court has
13 discretion to deny leave to amend due to “undue delay, bad faith . . . repeated failure to
14 cure deficiencies . . . , undue prejudice to the opposing party . . . , [and] futility of
15 amendment.” Leadsinger, Inc. v. BMG Music Pub., 512 F.3d 522, 532 (9th Cir. 2008).

16 III. DISCUSSION

17 This order is organized as follows. Section A addresses Williams’s § 1983 Fourth
18 Amendment claims against both Radford and the County and dismisses both claims with
19 prejudice. Section B addresses Williams’s § 1983 due process claims against both Radford
20 and the County and dismisses both claims with prejudice. Section C.1 reiterates that
21 Defendants do not seek dismissal of Williams’s § 1983 equal protection claim against
22 Radford, in contrast to Section C.2, which addresses Williams’s § 1983 equal protection
23 claim against the County and dismisses with leave to amend. Section D addresses
24 Williams’s three state law claims and dismisses those claims with prejudice. Section E
25 addresses Williams’s request to add a California Constitution equal protection claim and
26 gives leave for her to do so, with restrictions. Finally, Section F addresses the parties’
27 requests for judicial notice.

A. 42 U.S.C. § 1983 Fourth Amendment Claims

The FAC asserts that Radford, acting under color of state law, deprived Williams of her rights under the Fourth Amendment, and that the County's policies caused those constitutional violations (a Monell claim). See FAC ¶¶ 43–52. Williams sues both Radford and the County under 42 U.S.C. § 1983. Id. Defendants seek dismissal of both claims; they argue that Williams has failed to show that a search or seizure occurred. MTD FAC at 11. The Court dismisses both claims with prejudice because Williams failed to oppose dismissal of these claims. See Opp. (making no mention of the Fourth Amendment). When a plaintiff fails to address defendants' arguments, "such a failure in an opposition brief constitutes abandonment of the claim." Moore v. Apple, Inc., 73 F. Supp. 3d 1191, 1205 (N.D. Cal. 2014). In such situations, "courts generally dismiss [the claim] with prejudice." Id. (quoting Homsy v. Bank of Am., N.A., No. C 13–01608 LB, 2013 WL 2422781, at *5 (N.D. Cal. June 3, 2013)); see also Citizens for Free Speech, LLC v. Cnty. of Alameda, No. C 19-1026 SBA, 2020 WL 999644, at *4 (N.D. Cal. March 2, 2020) ("Plaintiffs do not respond to Defendant's argument. . . the implication of this lack of response is that any opposition to this argument is waived.") (quoting City of Arcadia v. U.S. Envtl. Protection Agency, 265 F. Supp. 2d 1142, 1154 n.16 (N.D. Cal. 2003)).

Accordingly, the Court dismisses the 42 U.S.C. § 1983 Fourth Amendment claims against both Radford and the County of Alameda with prejudice.

B. 42 U.S.C. § 1983 Due Process "Deprivation of Liberty" Claim

The FAC asserts that Radford, acting under color of state law, deprived Williams of her rights under the Fourteenth Amendment's Due Process Clause, and that the County's policies caused those constitutional violations (a Monell claim). See FAC ¶¶ 43–52. Specifically, Williams asserts that Radford deprived her of her liberty without due process of law. Id. ¶ 44(a). Williams sues both Radford and the County under 42 U.S.C. § 1983. Id. ¶¶ 43–52. Defendants seek to dismiss both claims; they argue that Williams has not suffered a deprivation of liberty and that Radford is entitled to qualified immunity. MTD

1 FAC at 12, 14. The Court dismisses both claims with prejudice because Williams
 2 concedes that she “has not pleaded a viable Section 1983 claim for deprivation of liberty.”
 3 Opp. at 3 (cleaned up). Williams further concedes, “there was no deprivation of
 4 ‘liberty.’”⁸ Id. Courts in such circumstances generally dismiss the relevant claim with
 5 prejudice. See Anigbogu v. Mayorkas, No. 21-cv-07419-TSH, 2022 WL 1304470, at *1–
 6 *2 (N.D. Cal. May 2, 2022) (dismissing multiple claims with prejudice because plaintiff
 7 agreed with defendant’s arguments urging dismissal of those claims).

8 Williams also indicates that she does not intend to further pursue or amend this
 9 claim, writing in her Opposition, “This is not a deprivation of liberty case.” Opp. at 4; see
 10 also id. at 3 (“Defendants waste four whole pages tediously arguing a point that we readily
 11 concede, [which is that we] have not [pled] a viable Section 1983 claim for deprivation of
 12 liberty”).

13 Accordingly, the Court dismisses the 42 U.S.C. § 1983 Fourteenth Amendment Due
 14 Process Clause claims against both Radford and the County of Alameda with prejudice.

15 C. **42 U.S.C. § 1983 Equal Protection Claims**

16 Williams’s FAC asserts that Radford, acting under color of state law, deprived
 17 Williams of her rights under the Fourteenth Amendment’s Equal Protection Clause, and
 18 that the County’s policies caused those constitutional violations (a Monell claim). See
 19 FAC ¶¶ 43–52. Williams sues both Radford and the County under 42 U.S.C. § 1983. Id.
 20 Defendants do not seek dismissal of Williams’s § 1983 equal protection claim against
 21 Radford, MTD FAC at 9, so the Court does not address that claim here. Defendants do
 22 seek dismissal of Williams’s § 1983 equal protection claim against the County, and the
 23 Court dismisses that claim with leave to amend.

24
 25 As Williams concedes that there was no due process violation whatsoever (by Radford or
 26 any other defendant), the County cannot be held liable for a constitutional violation that
 27 did not occur. See Plumeau v. Sch. Dist. No. 40 Cnty. of Yamhill, 130 F.3d 432, 438 (9th
 28 Cir. 1997); see also City of Los Angeles v. Heller, 475 U.S. 796, 799 (1986) (“If a person
 has suffered no constitutional injury at the hands of the individual [defendant], the fact that
 the [municipality] might have authorized the [constitutional violation] is quite beside the
 point.”)

1 Defendants argue that Williams has not alleged sufficient facts to meet the
2 standards for municipal liability set forth under Monell. Id. at 17. The Court agrees that
3 Williams has not satisfied Monell. Williams argues that the Court should allow her to
4 conduct discovery because she qualifies for a relaxed pleading standard under A.C. v.
5 Griego, No. 2:16-cv-00746-JAM-CKD, 2016 WL 5930592 (E.D. Cal. Oct. 12, 2016).
6 Griego does not apply in this case. The Court does, however, allow Williams to amend her
7 complaint and allege additional facts as to this claim. See Fed. R. Civ. P. 15(a)(2)
8 (directing courts to “freely give leave” to amend “when justice so requires.”).

9 **1. Sufficiency of Pleadings**

10 To state a claim under 42 U.S.C. § 1983, a plaintiff must “plead that (1) the
11 defendants acting under color of state law (2) deprived plaintiff of rights secured by the
12 Constitution or federal statutes.” Gibson v. United States, 781 F.2d 1334, 1338 (9th Cir.
13 1986). In Monell, the Supreme Court held that a plaintiff could sue municipalities directly
14 under § 1983 if their policies or customs cause such a constitutional violation. 436 U.S. at
15 690. Monell claims, however, cannot rest on a theory of respondeat superior. Id. at 691.
16 A plaintiff cannot hold a municipality liable simply because their employee commits a tort;
17 the municipality’s policy or custom must be the “moving force” behind the constitutional
18 violation. Id. at 694.

19 In full then, for a plaintiff to state a Monell claim, she must plausibly demonstrate
20 (1) that she possessed a constitutional right of which she was deprived; (2) that the
21 municipality had a policy; (3) that this policy amounts to deliberate indifference to the
22 plaintiff’s constitutional right; and (4) that the policy is the moving force behind the
23 constitutional violation. Plumeau, 130 F.3d at 438; see also Bd. of Comm’rs of Bryan
24 Cnty. v. Brown, 520 U.S. 397, 404 (1997) (“the municipality. . . through its deliberate
25 conduct . . . was the ‘moving force’ behind the injury alleged.”) (emphasis in original).

26 There are various theories under which plaintiffs can demonstrate the existence of a
27 qualifying municipal policy, including longstanding practice or custom, see Parker v. City
28 of Pittsburg, No. 17-cv-01563-LB, 2017 WL 2986225, at *5 (N.D. Cal. July 13, 2017)

(requiring more than “random acts or isolated events” to establish a practice or custom), failure to train, see Connick v. Thompson, 563 U.S. 51, 61 (2011) (requiring plaintiffs to show that municipalities’ failure to train amounted to deliberate indifference, i.e., that they were on actual or constructive notice that a particular omission in their training program causes city employees to violate citizens’ constitutional rights) (citing Bd. of Comm’rs of Bryan Cnty., 520 U.S. at 407), and policymaker ratification, see Christie v. Iopa, 176 F.3d 1231, 1239 (9th Cir. 1999) (requiring plaintiffs to show that an authorized policymaker approved a subordinate’s decision to establish ratification) (quoting City of St. Louis v. Praprotnik, 485 U.S. 112, 127 (1988)).

Without conceding the existence of a constitutional violation (equal protection or otherwise), see MTD FAC at 17, Defendants assert that Williams has not demonstrated the existence of a County policy. See id. Defendants assert that Williams’s factual allegations are “vague,” “conclusionary,” and “nonspecific,” and do not allege a specific County policy under any of the above theories. Id.

Williams’s allegations against the County are contained in a section entitled “Statement of General Background Facts.” See FAC ¶¶ 13–24. In that section, Williams alleges that the County “maintained customs, policies, or practices wherein . . . employees were encouraged, authorized, or otherwise permitted to engage in civil rights violations. . . .,” id. ¶ 13 (cleaned up); see also id. ¶¶ 18, 23. She alleges that “high ranking County Officials” demonstrated “deliberate indifference” to those civil rights violations, id. ¶ 14, and that the County demonstrated “deliberate indifference in the hiring, supervision, training and discipline of employee.” Id. ¶ 15; see also id. ¶ 17. She alleges that the County was “on actual notice of problems” and that, “despite having notice of customs, policies, patterns, or practices” of constitutional violations, the County “failed to take any or appropriate remedial action” to prevent said violations. Id. ¶¶ 21–22, 24.

Much of this language resembles the legal standards set forth in the caselaw cited supra. Monell claims must do more than “simply recite the elements of the cause of action.” AE ex rel. Hernandez v. Cnty. of Tulare, 666 F.3d 631, 637 (9th Cir. 2012)

1 (quoting Starr v. Baca, 652 F.3d 1202, 1216 (9th Cir. 2011)). Williams does not provide
2 further details of County policy, does not provide details of any events or acts (much less a
3 pattern of them), does not identify any County official (save Radford),⁹ and does not
4 identify an omission in any specific County training program. See FAC ¶¶ 13–42. She
5 merely recites the law. As such, Williams does not plausibly state a Monell claim.

6 Moreover, Williams recycles language from her Pleasanton Complaint. See supra §
7 I.A (Parties). Both complaints allege, without detail, a custom or policy of civil rights
8 violations, false police reports, and fabricated evidence against Black Americans.
9 Compare Pleasanton Compl. ¶ 21 with FAC ¶ 13. The complaints only differ in that the
10 Pleasanton Complaint alleges, without detail, a custom or policy of using “excessive force”
11 and false arrests against Black Americans, Pleasanton Compl. ¶ 21, while the FAC here
12 alleges a custom of “malicious false accusations and actions.” FAC ¶ 13.

13 Judge Orrick noted in his order dismissing the Pleasanton Complaint that
14 Williams’s recitation of the elements of Monell liability fails to “identify any prior
15 instances of excessive force or false arrests based on race or gender that could possibly
16 support a custom or practice allegation or establish deliberate indifference by supervisors.”
17 Williams v. Pleasanton, 2021 WL 3932012, at *4. The FAC here similarly fails to identify
18 any prior instances of racially motivated, malicious accusations. See FAC ¶¶ 13, 23
19 (alleging nonspecific “civil rights violations against Black Americans” and “disparate
20 treatment,” “excessive false police reports,” and “other harassment” of Black Americans);
21 see also id. ¶¶ 18, 20, 22 (further alleging nonspecific civil rights violations, including
22 “fabrication of evidence, falsification of police reports, or other misconduct,” along with
23 policy maker ratification and failure to remedy).

24 Williams has simply used boilerplate language reciting possible variations of a
25 Monell claim. This Court follows Judge Orrick and dismisses the Monell claim with leave

27
28 ⁹ Williams has alleged that DOES 1 through 100 proximately caused Williams’s injuries
through negligence, breach of duty, negligent supervision, management, or control,
battery, violation of constitutional rights, etc. FAC ¶¶ 8–9.

1 to amend, “so that [Williams] may identify the type of Monell claim she is alleging
2 (custom or policy, failure to train, or failure to discipline and whether the City's liability is
3 based on supervisorial ratification or deliberative indifference), to allege facts about the
4 incident to support her claim . . . , and . . . to identify facts showing pattern of similar
5 constitutional violations.” See Williams v. Pleasanton, 2021 WL 3932012, at *4.

6 **2. Applicability of A.C. v. Griego**

7 In her Opposition, Williams exclusively relies on an Eastern District of California
8 case, Griego, 2016 WL 5930592, to argue against dismissal of her equal protection Monell
9 claim.¹⁰ In Griego, the court allowed a “relaxed pleading standard” for a Monell claim
10 alleging that the City of Fairfield had failed to adequately train a police officer who shot
11 and killed José Ceja. Id. at *1, *3–4. The court thereby denied defendants’ motion to
12 dismiss the Monell claim. Id. at *4. Williams seeks the same relaxed pleading standard in
13 this case and asks that the Court allow her to proceed to discovery. Opp. at 7. Defendants
14 counter that the plaintiff in Griego pled at least “some facts,”¹¹ and Williams essentially
15 pleads no facts at all. Reply at 7.

16 Neither the Northern District of California nor the Ninth Circuit has embraced the
17 reasoning in Griego or its antecedents, Phillips v. County of Fresno, No. 1:13-cv-0538
18 AWI BAM, 2013 WL 6243278 (E.D. Cal. Dec. 3, 2013), and Estate of Duran v. Chavez,
19 No. 2:14-cv-02048-TLN-CKD, 2015 WL 8011685 (E.D. Cal. Dec. 7, 2015). Northern
20 District of California cases dealing with requests for a relaxed pleading standard have
21 uniformly ruled Griego and its antecedents inapplicable. See, e.g., Crosby v. Wellpath,
22 Inc., No. 20-cv-08529-MMC, 2021 WL 3053056 (N.D. Cal. July 20, 2021); Mondragon v.
23 City of Fremont, No. 18-cv-01605-NC, 2020 WL 1156953 (N.D. Cal. March 10, 2020);

24
25 ¹⁰ Williams and Defendants tend not to differentiate among the Monell claims, see supra
n.11, and as such Williams defends all of her Monell claims with this argument. Because
26 the Court has already dismissed the Fourth Amendment and due process Monell claims,
the Court restricts its analysis to the equal protection Monell claim.

27 ¹¹ In Griego, the plaintiff alleged that the police officer who shot the victim was called a
“rookie” by another fellow officer and was told by another to “wait, wait, wait.” Griego,
2016 WL 5930592, at *4. The court wrote that both details “implicate training or lack
thereof.” Id. There are no analogous allegations here.

1 Wilson v. Town of Danville, No. 17-cv-00863-DMR, 2017 WL 2335545 at *3 (N.D. Cal.
2 May 30, 2017).

3 Moreover, as persuasive authority, the caselaw from the Eastern District is
4 muddled. It does not specify how few facts plaintiffs can plead and still satisfy the relaxed
5 pleading standard. In Phillips, the court emphasized that though the allegations were
6 “sparse,” plaintiff at least pointed to newspaper articles detailing prison overcrowding and
7 a class-action suit. Phillips, 2013 WL 6243278, at *10–*11. In Duran, however, the Court
8 apparently allowed a claim of supervisory liability for customs/practices/policies to
9 proceed without any factual details tying named supervisors to the incident. Duran, 2015
10 WL 8011685, at *9. Finally, in Griego itself, the court’s exact language was, “Plus,
11 Plaintiffs have pled some facts,” Griego, 2016 WL 5930592, at *4.

12 Given the muddled nature of this relaxed pleading standard and the lack of
13 endorsement by the Ninth Circuit and the Northern District, the Court does not endorse
14 Griego’s reasoning. Williams’s allegations are too sparse; Defendants have no actual
15 notice of what information Plaintiff seeks and from what source. Accordingly, the Court
16 dismisses the 42 U.S.C. § 1983 Fourteenth Amendment Equal Protection Clause claim
17 against the County of Alameda, with leave to amend.

18 **D. State Law Claims**

19 Williams’s FAC alleges that Radford violated California Civil Code section 51.7
20 (the Ralph Act) and California Civil Code section 52.1 (the Bane Act) and committed
21 common-law negligence. Id. ¶¶ 53–65. Williams also brings claims based on these
22 violations against the County of Alameda via respondeat superior. Id. ¶¶ 56, 61, 65.
23 Defendants argue that California Welfare and Institutions Code section 15634(a) provides
24 absolute immunity to Radford for all asserted violations of state law. See MTD FAC at
25 17–20. If Radford is immune, then immunity extends to the County as well. See Cal.
26 Gov’t Code § 815.2(b) (“... a public entity is not liable for an injury resulting from an act
27 or omission of an employee of the public entity where the employee is immune from
28 liability.”). Williams addresses Radford’s assertion of immunity by exclusively relying on

1 a “2020 Amendment” to the Ralph Act. See Opp. at 5–9. This amendment, however, does
 2 not defeat Radford’s immunity. Accordingly, the Court dismisses all of Williams’s state
 3 law claims.

4 **1. Welfare and Institutions Code Section 15634(a) Immunity**

5 California Welfare and Institutions Code section 15634(a) affords employees of
 6 adult protective services agencies (among others) immunity from any civil and criminal
 7 liability when they make a report of elder abuse. Cal. Welf. & Inst. Code § 15634(a) (“No
 8 . . . employee of an adult protective services agency . . . who reports a known or suspected
 9 instance of abuse of an elder or dependent adult shall be civilly or criminally liable for any
 10 report . . .”).¹²

11 Although Williams has disputed Radford’s job title, see supra n.2, Williams
 12 concedes that Radford is an employee of the County of Alameda’s Adult Protective
 13 Services, an adult protective services agency. In her FAC, Williams alleges that Radford
 14 is an employee of the County of Alameda’s Social Services Agency. FAC ¶¶ 25, 42.
 15 Williams, however, also alleges that the City of Dublin police referred to Radford as
 16 “Nicole from Alameda County Adult Protective Services.” See id. ¶ 27. In their MTD,
 17 Defendants clarify that Radford is “employed by Adult Protective Services of defendant
 18 County of Alameda.” MTD FAC at 8, 9. Williams does not dispute this characterization
 19 of Radford’s employment in her Opposition. See Opp. at 1 (wherein Williams agrees,
 20 “Defendants for the most part . . . fairly summarize our FAC,” and only objects to the
 21 suggestion that Radford actually received an anonymous report). As a matter of agency

22
 23 ¹² The section reads: “No . . . employee of an adult protective services agency or a local
 24 law enforcement agency who reports a known or suspected instance of abuse of an elder or
 25 dependent adult shall be civilly or criminally liable for any report required or authorized by
 26 this article.” Id. Neither party’s briefs address what reports are required or authorized by §
 27 15634(a) and its associated sections. This phrase does play a role in the § 15634(a)
 28 jurisprudence. See, e.g., Valero v. Spread Your Wings, LLC, 88 Cal. App. 5th 243, 262
 (Cal. Ct. App. 2023) (“This immunity, [the plaintiff] contends, is coextensive with the
 requirement to report, which, per [plaintiff’s] argument, is limited to instances of known or
 suspected abuse, or abuse told to the mandatory reporter by the elder or dependent adult.”).
 The Valero court, however, disagreed with its plaintiff and held that § 15634(a) provided a
 broad and absolute immunity. See id. at 263, 265 (discussed infra).

1 organization, Adult Protective Services is part of the County of Alameda's Social Services
2 Agency. See Older Adult Abuse and Neglect, ALAMEDA CNTY. SOC. SERV. AGENCY,
3 <https://www.alamedacountysocialservices.org/our-services/Abuse-and-Protection/adult-and-senior-abuse/index> (last visited July 5, 2023). Given these circumstances, the Court
4 considers Radford an employee of an adult protective services agency.
5

6 As Radford is an employee of an adult protective services agency, Defendants
7 assert that § 15634(a) affords Radford immunity from any claims arising out of her reports
8 of elder abuse. See MTD FAC at 17–20; Reply at 9–12.¹³ Defendants assert that this
9 immunity applies even if the reports of elder abuse are false. See MTD FAC at 18–19;
10 Reply at 10.

11 California state courts have consistently held that California Welfare and
12 Institutions Code section 15634(a) provides absolute immunity for mandated reporters.
13 Employees of adult protective services are mandated reporters. Cal. Welf. & Inst. Code §
14 15634(a) (“... [an] employee of a county adult protective services agency..., is a
15 mandated reporter.”). The immunity provided by § 15634(a) is “sweeping in its breadth”
16 and “an absolute privilege.” Easton v. Sutter Coast Hosp., 80 Cal. App. 4th 485, 489, 491
17 (Cal. Ct. App. 2000); see also Santos v. Kisco Senior Living, LLC, 1 Cal. App. 5th 862,
18 871 (Cal. Ct. App. 2016) (“In order to further ensure that mandated reporters comply with
19 their reporting obligations, section 15634 . . . , ‘create[s] an absolute privilege in those
20 individuals required to make such reports. . . .’”) (quoting Easton, 80 Cal. App. 4th at 489).

21 Indeed, a California court held just this year that § 15634(a) immunity applies even
22 if a mandated reporter knowingly makes a false report of elder abuse. In Valero v. Spread
23 Your Wings, LLC, the court held that “the absolute immunity afforded to mandated
24 reporters by the Legislature in section 15634(a)—‘sweeping in its breadth’—extends to
25 knowingly false or fabricated reports.” 88 Cal. App. 5th at 265 (internal citations omitted)

26
27 ¹³ Defendants also assert other government code immunities, including Government Code
28 sections 815, 818.8, 818, 821.6, 820.8, 820.2, and 822.2. See MTD FAC at 20–21; see
also Reply at 12–13. As California Welfare and Institutions Code section 15634(a)
provides absolute immunity, the Court does not address them here.

1 (emphasis added). The Valero court observed that legislative intent favors absolute
2 immunity from suit for mandated reporters. Id. at 263 (referencing the legislative goals of
3 § 15634(a): “to increase the reporting of incidents of elder and dependent-care abuse and
4 to reduce the forces that chill such reporting, such as the fear of suit, meritorious or not.”).

5 Even if, as alleged, Radford made multiple knowingly false reports of elder abuse
6 and fabricated an anonymous report to justify those reports, California Welfare and
7 Institutions Code section 15634(a) affords Radford absolute immunity. Immunity extends
8 to the County as well. See Cal. Gov’t Code § 815.2(b).

9 **2. “2020 Amendment” (A.B. 1775) to California Civil Code section
10 51.7 (the Ralph Act)**

11 In her Opposition, Williams exclusively relies on a “2020 amendment” to the Ralph
12 Act, A.B. 1775, to defeat Defendants’ asserted California Welfare and Institutions Code
13 section 15634(a) immunity (and other asserted immunities). See Opp. at 5–9. Williams
14 does not address Valero, which post-dates the 2020 amendment, in her Opposition. See id.
15 Prior to A.B. 1775, the Ralph Act provided “that all persons within the jurisdiction of this
16 state have the right to be free from any violence, or intimidation by threat of violence . . . ,”
17 committed against them because of a protected characteristic. State Assemb. 1775 § 2,
18 2019–2020 Leg., Reg. Sess. (Cal. 2020). Among other additions, A.B. 1775 provided
19 “that intimidation by threat of violence includes knowingly or recklessly making or
20 threatening to make a false claim or report to a peace officer . . . alleging that another
21 person has engaged in unlawful activity.” Id.; see also Cal. Civ. Code § 51.7(b)(2).
22 Williams asserts in her Opposition that the California Legislature intended A.B. 1775’s
23 explicit designation of false police reports as intimidation to negate immunities, including
24 § 15634(a). See Opp. at 8–9.

25 A.B. 1775 does not apply here, for two reasons. One, A.B. 1775 was not in effect
26 when the events of the present case occurred. Despite Williams’s attempts to categorize
27 A.B. 1775 as a “clarification” of existing law, Williams does not adequately address this
28 retroactivity issue. Two, it is the opinion of this Court that the Legislature did not intend

1 A.B. 1775 to negate § 15634(a) immunity.

2 **a. Retroactivity**

3 The current iteration of the Ralph Act does not apply in the present case because
 4 A.B. 1775 went into effect on January 1, 2021,¹⁴ a year after the alleged events on
 5 December 31, 2019. Cal. Civ. Code § 51.7 (see “Credits,” West’s Ann. Cal. Civ. Code §
 6 51.7); see also FAC ¶¶ 25, 27. “Generally, statutes operate prospectively only.” Myers v.
 7 Philip Morris Co., Inc., 28 Cal. 4th 828, 840 (Cal. 2002). Williams, however, argues that
 8 A.B. 1775 only “clarified” already existing law, and that false police reports have always
 9 qualified as “intimidation by threat of violence” under the Ralph Act. Opp. at 5–7. “If the
 10 amendment merely clarifies existing law,” the amendment presents “no question of
 11 retroactivity” because the law has not actually changed. Id. at 6 (quoting McClung v.
 12 Emp. Dev. Dept., 34 Cal. 4th 467, 471 (Cal. 2004) (internal citations omitted)).

13 Williams admits that the legislative history of A.B. 1775 provides no “explicitly
 14 specific statements” indicating that A.B. 1775’s new language should be treated as a
 15 “clarification.” Id. at 6. She instead argues that the structure of the amended Ralph Act
 16 suggests that the Legislature intended the new language to be a “clarification.” See id.
 17 Williams argues that if A.B. 1775 “intended to create fresh law, the obviously logical
 18 approach would have been to create a new subsection (c),” instead of including the new
 19 language in subsection (b)(2). Id. She surmises that by including the language in (b)(2),
 20 A.B. 1775 “further defines” and “clarifies” the original section (b). Id. at 7.

21 But the structure of the amended Ralph Act does not conclusively demonstrate the
 22 Legislature’s intent regarding retroactivity.¹⁵ The current structure of the Act is consistent

23
 24 ¹⁴ Williams refers to A.B. 1775 as the “2020 amendment” to the Ralph Act. See id. at 5–6.
 25 Defendants point out that the amendment went into effect on January 1, 2021 and refer to
 26 it as the 2021 amendment. See Reply at 10–11. Out of deference to Williams, the Court
 27 refers to A.B. 1775 as the “2020 amendment” when discussing her arguments and
 28 otherwise as A.B. 1775.

29 ¹⁵ Defendants do not directly address Williams’s statutory structure argument. See Reply
 30 at 11. Instead, Defendants argue that William’s “clarification” argument has no backing in
 31 the caselaw. See id. Defendants also object to Williams’s RJD insofar as it requests that
 32 the Court notice the “fact” that A.B. 1775 “clarified” the Ralph Act, arguing that Williams
 33 cannot request that the Court notice a disputed fact. See id. Finally, Defendants argue

1 with both a clarification of the law and the creation of new law. One could reasonably
2 read the added language (explicitly designating false police reports as intimidation by
3 threat of violence) as a new instantiation of the general phrase, “intimidation by threat of
4 violence.” See Cal. Civ. Code § 51.7(b)(2). It makes sense that the Legislature would
5 have included the new instantiation of a phrase found in section (b) under the same section.
6 The structure of the Ralph Act therefore provides no help in determining whether A.B.
7 1775 clarified or expanded the meaning of “intimidation by threat of violence.” See id.

8 As Williams does not provide any further caselaw or legislative history to support
9 her assertion that A.B. 1775 “clarifies” existing law, see Opp. at 6–7, Williams has not
10 adequately supported her argument. Defendants also could not find any cases prior to the
11 passage of A.B. 1775 holding that false police reports have always amounted to
“intimidation by threat of violence.” Reply at 11. Accordingly, the Court holds that the
12 current language of the Ralph Act does not apply to the present case.

14 **b. Negating Immunity**

15 Williams’s arguments against Defendants’ asserted immunities relies on the
16 application of A.B. 1775 to the present case; without it, none of the following arguments
17 have merit. But even if A.B. 1775 did apply, it would not defeat Radford’s absolute
18 immunity under California Welfare and Institutions Code section 15634(a).

19 Williams asserts that A.B. 1775’s “clarification” covers all California immunity
20 statutes, i.e., that all California immunity statutes already included exceptions for false
21 police reports. See Opp. at 7–9. In essence, she maintains that the Legislature intended
22 A.B. 1775 to “negate” any immunity statute that would have otherwise protected Radford
23 from liability for making a false police report, pointing to the modification of California
24 Civil Code section 47(b) as evidence of this intent. See id. at 8. Williams argues that
25 because A.B. 1775 modified the language of California Civil Code section 47(b) to clarify

26
27 that, if A.B. 1775’s amendment means that the Ralph Act always viewed false police
28 reports as “intimidation by threat of violence,” see id.; see also infra § D.2.b (Overruling
Immunity), then, “No amendment to Civil Code section 51.7 would have been required”
on top of the amendment to Civil Code section 47. Reply at 11.

1 that false reports are not privileged communications, by analogy the “substantially similar”
2 § 15634(a) should no longer extend immunity to false police reports. See id. Williams
3 speculates that the authors of A.B. 1775 “overlooked amending immunity/privilege
4 statutes” other than § 47(b). Id. Williams asserts that the Legislature intended A.B. 1775
5 to “abrogate” or “negate” all immunity statutes enacted prior to A.B. 1775, insofar as they
6 provided immunity for false police reports. Id.

7 Williams’s argument fails for three reasons. First, it simply strains credulity to
8 suggest that the Legislature amended one statute to accommodate changes in the Ralph Act
9 but somehow forgot all other statutes. See id. at 7. It is more likely that the Legislature
10 specifically intended to leave the other immunity statutes intact, including California
11 Welfare and Institutions Code section 15634(a). Second, § 15634(a) pertains to elder
12 abuse while § 47(b) does not. Valero held that there are policy reasons for specifically
13 extending absolute immunity to mandated reporters of elder abuse. See supra § D.1
14 (“Welfare and Institutions Code Section 15634(a) Immunity”). The two statutes are not
15 “substantially similar.” See Opp. at 8. Third, “it is generally recognized that a statutory
16 governmental immunity overrides a statute imposing liability.” Gates v. Superior Ct., 32
17 Cal. App. 4th 481, 510 (Cal. Ct. App. 1995). Accordingly, § 15634(a) immunity would
18 still override the Ralph Act, even if the current language applied to events on December
19 31, 2019.

20 In sum, Williams fails to overcome Defendants’ asserted immunity against her state
21 law claims. Accordingly, the Courts dismisses all of the state law claims against both
22 Radford and the County of Alameda with prejudice.

23 **E. California Constitution Article I Section 7 Amended Claim**

24 Williams seeks leave to add a claim asserting that Radford violated the equal
25 protection clause of the California state constitution (Article I, Section 7). See Opp. 9–10.
26 Williams does not explicitly say against whom she brings this claim. See id. at 9 (“... we
27 learned of an additional claim that Plaintiff should be given leave to add in a further
28 amended complaint); see also id. at 10 (“... Plaintiff should be given leave to file a

1 Second Amended Complaint which adds a claim for damages for violation of the Equal
2 Protection clause of the California constitution, i.e., Article 1, Section 7.”). In general, the
3 Court gives leave to amend when justice so requires. Fed. R. Civ. P. 15(a)(2). Defendants
4 have not sought to dismiss Williams’s federal § 1983 claim against Radford asserting
5 equal protection violations; this would suggest that an analogous state claim could be
6 viable. The difficulty, however, is that Plaintiff intends to sue for money damages only.
7 See Opp. at 9. As explained below, the caselaw suggests that Article I, Section 7 does not
8 provide for damages as a form of relief. Nevertheless, the Court will give Williams the
9 opportunity to make her claim. The Court, however, restricts her from seeking money
10 damages under the new claim.

11 **1. General Rule re Damages**

12 As Defendants note, California courts have held that the California constitution’s
13 equal protection clause generally prohibits damages as a remedy. See Reply at 13; see,
14 e.g., Javor v. Taggart, 98 Cal. App. 4th 795, 807 (Cal. Ct. App. 2002) (“It is beyond
15 question that a Plaintiff is not entitled to damages for a violation of the due process clause
16 or the equal protection clause of the state Constitution.”); see also Gates v. Superior Ct., 32
17 Cal. App. 4th 481, 518 (Cal. Ct. App. 1995) (“ . . . we conclude there is no evidence of any
18 intent on the part of the voters to permit the recovery of personal injury damages as a result
19 of a violation of the equal protection provisions of the California Constitution.”).

20 **2. Whooley**

21 Williams, however, cites to the opinion of another Northern District court, which
22 held there is an exception to this general rule: “A plaintiff, however, may state a claim for
23 damages under Article I, Section 7 if the claim is tied to an established common law or
24 statutory cause of action.” Opp. at 9–10 (quoting Whooley v. Tamalpais Union High Sch.
25 Dist., 399 F. Supp. 3d 986, 997 (N.D. Cal. 2019)). Williams argues that, just as Judge
26 Seeborg permitted the plaintiff in Whooley to attach an equal protection claim for damages
27 to her federal Rehabilitation Act claim, this Court should allow Williams to add an equal
28 protection claim for damages to her federal § 1983 claim. See Opp. at 10.

1 Defendants respond that the reasoning in Whooley “is not an accurate statement of
2 law” and that the “mere existence of some other viable legal claim” does not “permit a
3 plaintiff to sue for money damages for a violation of the California Constitution.” Reply at
4 14. Defendants argue that California courts determine whether a constitutional provision
5 allows for damages as a remedy through a multi-factor analysis. Id. Finally, Defendants
6 contend that California courts, such as the one in Gates, have already conducted this
7 analysis and concluded there is no right to damages under California’s equal protection
8 clause. Id.

9 The Court agrees with Defendants.

10 Whooley relied on Julian v. Mission Community Hospital, which in relevant part
11 reads, “There is no cause of action for damages for alleged violations of . . . article I,
12 section 7, subdivision (a) (due process and equal protection), when such an action is not
13 tied to an established common law or statutory action. . . .” Whooley, 399 F. Supp. 3d at
14 997 (citing Julian v. Mission Cnty. Hosp., 11 Cal. App. 5th 360, 391 (Cal. Ct. App.
15 2017)). This language does suggest that California equal protection claims for damages
16 can piggyback on other, independent causes of action.¹⁶ Importantly, however, Julian cited
17 to Katzberg v. Regents of University of California. Julian, 11 Cal. App. 5th at 391 (“There
18 is no cause of action for damages for alleged violations of California Constitution . . . ,
19 article I, section 7, subdivision (a) (due process and equal protection), when such an action
20 is not tied to an established common law or statutory action. . . .”) (citing Katzberg v.
21 Regents of Univ. of Cal., 29 Cal. 4th 300, 303, 321 (Cal. 2002)). And the cited language
22 from Katzberg reads, “We grant review in this matter. . . to consider whether an individual
23 may bring an action for money damages on the basis of an alleged violation. . . of the

24
25 ¹⁶ The Court interprets Whooley as allowing equal protection claims for damages to
26 piggyback on other independent causes of action (i.e., causes of action that do not
27 reference violations of the equal protection clause) because (1) Williams argues as such,
see Opp. 9–10 (“. . . where the claim for constitutional violations damages is related to
28 another independent federal or state claim. . . .”), and (2) the plaintiff in Whooley brought
her other cause of action under section 504 of the Rehabilitation Act, see Whooley, 399 F.
Supp. 3d at 996.

1 California Constitution. . . in the absence of a statutory provision or an established
 2 common law tort authorizing such a damage remedy for the [California] constitutional
 3 violation.” Katzberg, 29 Cal. 4th at 303 (emphasis added).¹⁷

4 Julian truncated Katzberg, with unfortunate effect. In Katzberg, the emphasized
 5 language above served as an uncontroversial framing of the legal issue. The plaintiff in
 6 Katzberg sued directly under Article I, Section 7; he did not sue under a statutory provision
 7 or common law tort which explicitly authorized damages as a remedy for California
 8 constitutional violations. See id. at 303, 306. If he had, he would obviously be entitled to
 9 sue for damages. The Katzberg court dealt with the narrow issue of whether Article I,
 10 Section 7 itself provides for damages as a remedy. See id. at 307 (“The question presented
 11 here is whether . . . , plaintiff may maintain an action for monetary damages to remedy the
 12 asserted violation of his due process liberty interests under article I, section 7(a). . . .”). It
 13 did not suggest that an equal protection claim for damages could piggyback on other
 14 independent causes of action. The Julian court construed Katzberg too broadly when it
 15 created a new and separate avenue for damage claims, and Whooley employed this overly
 16 broad interpretation.

17 In the present case, Williams attempts to piggyback her state equal protection claim
 18 on her federal § 1983 claim. Opp. at 9–10. The California Supreme Court in Katzberg did
 19 not authorize that. Admittedly, § 1983 does authorize damages for constitutional
 20 violations. See Carey v. Piphus, 435 U.S. 247, 254 (1978) (“Insofar as petitioners contend
 21 that the basic purpose of a § 1983 damages award should be to compensate persons for
 22 injuries caused by the deprivation of constitutional rights, they have the better of the
 23 argument.”). Defendants explain, though, that § 1983 “can only be used to assert
 24 violations of federal rights.” Reply at 14 (citing West v. Atkins, 487 U.S. 42, 48 (1988))

25
 26 ¹⁷ When the Katzberg court wrote “the constitutional violation” in the emphasized section,
 27 it was referring to “an alleged violation . . . of the California Constitution.” Id. If the
 28 court had meant to reference a statute or tort that authorized a damage for any
 constitutional violation, it would have likely written “a constitutional violation” or “any
 constitutional violation.” Its use of “the” implies a specific constitutional violation that has
 already been discussed, which in this case was the California Constitution violation.

1 (“To state a claim under § 1983, a plaintiff must allege the violation of a right secured by
2 the Constitution and laws of the United States.”) (emphasis added)). Katzberg only refers
3 to statutes or common law torts authorizing damages for violations of rights guaranteed by
4 the California Constitution. See supra n.17. But even if Katzberg refers to the violation of
5 rights guaranteed by both the California and federal constitutions, it only held that an
6 action for damages is not available under Article I, Section 7’s due process clause absent
7 other “statutory provisions” or “common law torts.” Katzberg, 29 Cal.4th at 303. It did
8 not hold that an action for damages is necessarily available in the presence of other statutes
9 or torts.

10 Instead, the Supreme Court of California approvingly cited Gates in Katzberg,
11 writing, “Like the Court of Appeal in Gates . . . which examined these same materials in
12 order to consider the voters’ implied intent to create a damages remedy with respect to the
13 equal protection clause of article I, section 7(a) . . . we find nothing in the ballot materials
14 to suggest that the voters affirmatively intended to create, within article I, section 7(a), a
15 damages remedy with respect to the due process clause set forth in this constitutional
16 provision.” Id. at 320. The Court therefore concludes that the California equal protection
17 clause does not allow for damages as a remedy.

18 Accordingly, the Court gives leave to Williams to amend her complaint and add a
19 claim under the California Constitution’s equal protection clause, but does not permit her
20 to seek damages in connection with that claim.

21 **F. Requests for Judicial Notice**

22 Finally, both parties seek judicial notice of documents. Defendants request that the
23 Court take notice of the fact that state law and regulations require an investigation of
24 allegations of elder abuse. See Defendants’ RJN. Defendants’ requested fact is
25 undisputed, and as such the Court notices said fact. See Fed. R. Evid. 201(b), (c)(2).

26 Williams seeks judicial notice of the entire legislative history of A.B. 1775 (the
27 “2020 amendment,” see supra § D.2). See Williams’s RJN. Defendants contend, and the
28 Court agrees, that it is not clear which fact Williams asks the Court to notice. See Obj. to

1 Williams's RJN at 2 (dkt. 41 attach. 1). The Court denies Williams's RJN.

2 Under Rule 201(b) of the Federal Rule of Evidence, a court may take notice of an
3 adjudicative fact if it is “not subject to reasonable dispute.” A fact is “not subject to
4 reasonable dispute” if it is “generally known” or can be determined from sources “whose
5 accuracy cannot reasonably be questioned.” Fed. R. Evid. 201(b)(1–2); see also Khoja v.
6 Orexigen Therapeutics, Inc., 899 F.3d 988, 999 (9th Cir. 2018). A court “must take
7 judicial notice if a party requests it and the court is supplied with the necessary
8 information.” Fed. R. Evid. 201(c)(2).

9 A court, however, “must also consider—and identify—which fact or facts it is
10 noticing from such a transcript. Just because the document itself is susceptible to judicial
11 notice does not mean that every assertion of fact within that document is judicially
12 noticeable for its truth.” Khoja, 899 F.3d at 999. A court may choose to notice public-
13 record documents but not disputed facts within them. See Williams v. Alameda Cnty., No.
14 3:22-cv-01274-LB, No. 3:22-cv-02705-LB, 2022 WL 17169833, at *6 (N.D. Cal. Nov. 22,
15 2022).

16 **1. Defendants' RJN**

17 Defendants ask the Court to take notice of two facts: (1) the existence of a legal
18 duty to investigate allegations of elder abuse and (2) that the investigation must include an
19 attempt to meet privately with the suspected victim. Defendants' RJN ¶ 1–2. Defendants
20 cite to multiple sections of the California Welfare and Institutions Code, of which section
21 15762 is sufficient (“When an allegation of abuse of an elder . . . is reported to a county
22 designated adult protective service agency and an agency social worker has reason to
23 believe an elder . . . has suffered or is at substantial risk of abuse . . . , the social worker
24 shall attempt to obtain consent to enter and meet privately with the elder.”). There appears
25 little room for reasonable dispute; the language is clear and unambiguous.

26 The Court grants Defendants' request.

27 **2. Williams's RJN**

28 If a plaintiff fails to identify what fact she wishes the court to take judicial notice of,

1 the court can deny the request as vague and ambiguous. Cota v. Aveda Co., No. 3:20-cv-
2 01137-BEN-BGS, 2020 WL 6083423, at *10 (S.D. Cal. Oct. 14, 2020). Williams does not
3 indicate what fact she wishes the Court to notice. See Williams's RJD at 0 (consisting of a
4 single sentence, "Plaintiff submits herewith . . . the Legislative History of the 2020
5 Amendment . . . and asks that the Court take Judicial Notice of it."). Williams has failed to
6 hold up her end of the RJD bargain.

7 The Court can at most notice the legislative history's existence; it cannot notice the
8 truth of its content. See Hart v. Facebook Inc., No. 22-cv-737-CRB, 2023 WL 3362592, at
9 *2 n.2 (N.D. Cal. May 9, 2023) ("The Court can only note that this tweet exists, but it
10 cannot take judicial notice of the truth of its content.") (citing Threshold Enters. Ltd. v.
11 Pressed Juicery, Inc., 445 F. Supp. 3d 139, 146 (N.D. Cal. 2020)). The Court does not
12 notice any statements as to the nature or purpose of the amendment to the Ralph Act.

13 Accordingly, the Court grants Defendants' request for judicial notice and denies
14 Williams's request for judicial notice.

15 **IV. CONCLUSION**

16 For the foregoing reasons, the Court:

- 17 1. Grants the motion to dismiss, with leave to amend only the § 1983 equal
18 protection claim against the County.
19 2. Allows Williams to add a California Constitution claim asserting violations
20 of California's equal protection clause (Article I, Section 7). Williams may
21 not seek damages in connection with that claim.
22 3. Grants Defendants' RJD and denies Williams's RJD.

23 Should Williams wish to amend, she must do so within thirty days of this order.

24 **IT IS SO ORDERED.**

25 Dated: July 14, 2023



CHARLES R. BREYER
United States District Judge